

### **REMARKS**

Entry of the amendments is respectfully requested. Claims 1-7, 9, and 11-18 are pending in the application. Claims 1-7 and 9 are amended; claims 8 and 10 have been cancelled; and claims 11-18 are added. Favorable reconsideration and allowance of this application is respectfully requested in light of the foregoing amendments and the remarks that follow.

1. **Recapitulation of the Invention**<sup>1</sup>

The invention relates to a machine having a permanently fixed type plate. Type plates, often called ID plates, name plates, or data plates, are often used on industrial and other machines to identify the machine by manufacturer and model number and/or to provide additional information about the machine. This data is usually stamped or printed on the metal plate. Other electronically generated information concerning, e.g., an operating state of the machine such as its aggregate hours of operation or its rotational output, is sometime stored in a separate device such as an onboard CPU. In accordance with the invention, these functions are combined and enhanced in a remarkably simple and effective manner by providing a type plate with a memory chip operable to store and allow access to written and/or graphical information generated by the machine, which is transmitted to the memory chip via a transmitter on the machine. The transmitter provides operating data related to the condition of the machine or its operation (e.g., operating time, the loading or rotational speeds and/or compliance with maintenance intervals, or assignment of the machine to an area or site).

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<sup>1</sup> This Section 1 is intended to provide the Examiner with some background information on the state of the art and applicant's contribution to it. It is *not* intended to distinguish specific claims from the prior art. That task is performed in Section 2 below.

The type plate is arranged such that data generated by the machine can be transmitted from the transmitter to the memory chip during operation of the machine, and from which the information can be readily accessed by an external appliance. The type plate can also include a rating plate 10 having areas 11 for the application of inscriptions 11 or bar codes 13.

Preferably, the memory chip does not have its own power supply. Rather, the chip receives electrical power from the transmitters or appliances for reading data into and/or out of the memory chip. The transmitter provides data generated by the machine via a signal to the type plate. The type plate includes a receiver 18 connected to a data input 14 of the chip 12. The signal received at the receiver 12 supplies power to the chip 12 as well as the transmission of data from the transmitter of the machine. Alternatively, the machine can include a wire connection from the transmitter to the input of the chip.

The type plate also preferably includes a transmitter/receiver 28 to enable communication to and from an appliance separate from the type plate in a non-contact manner. Such appliances can include a laptop 20 or operating hour counter 20 having a transmitter/receiver 24 or 26. The transmitter/receiver 28 is connected by a second data input/output 30 to the memory chip 12. Analogous to providing a signal to the receiver 12, the signal from the appliance separate from the type plate supplies power to access and store data via the input/output 30 to the chip 12. Lines 32 and 34 connect the transmitter/receiver 28 with the input 14. The chip 12 can be configured in such a way to limit access based on a pre-defined condition (e.g., security code) or interrogation authorization system.

2. Rejection of Claims 8 and 9 under 35 U.S.C. § 102(e)

Claims 8 and 9 stand rejected under § 102(e) as being anticipated by Berger et al. (U.S. Patent No. 6,105,874). Applicants have cancelled claim 8 and added claim 13. The applicants respectfully traverse this rejection because the cited reference does not disclose each and every element of the claimed invention. Therefore, reconsideration is in order and is respectfully requested.

Claim 11 recites a combination of a machine and an apparatus configured to monitor operation of the machine. The apparatus includes a wireless transmitter disposed in the machine, the wireless transmitter being configured to transmit a first signal representative of operating data of the mechanical machine. The operating data may be indicative of an operating speed or operating time period of the machine. The apparatus further includes a type plate affixed to the machine and bearing an electronic storage device. The type plate (preferably the electronic storage device) includes a first input to receive the first signal from the wireless transmitter of the machine, a second input configured to receive a second signal representative of data from a device that is separate from the type plate, and an output configured to provide wire free transmission of the operating data to the device that is separate from the type plate. The type plate preferably does not have its own power supply.

The Berger et al. patent does not disclose a machine or type plate *at all*. It instead discloses a data carrier or generic “chip card” having a contact interface means 3 and a contactless interface means 4 (Col. 4, lines 35-38, *emphasis added*). Both interface

means 3 and 4 are coupled by a data transfer circuit 27 to a data processing means 22 and a memory means 26 (Col. 5, line 65 – Col. 6, line 1).

Because it does not relate to a type card for a machine, the Berger et al. patent does not disclose an assembly configured to monitor operation of a machine. In particular, the Berger et al. patent does not disclose a machine having a wireless transmitter disposed therein, the wireless transmitter configured to transmit a signal representative of operational data that includes an operating time and an operating speed of the machine. Furthermore, Berger et al. does not disclose a type plate affixed to a machine and configured to receive the signal from the wireless transmitter, and to store the operational data of the machine. The Berger et al. patent instead merely discloses a dual mode data carrier having a contact interface and a contactless interface. In light of the reasons stated above, claim 12 defines over the cited references on record and passage to allowance is respectfully requested.

Claim 9 is believed to be in condition for allowance for incorporating by reference the limitations of claim 12 and for defining additional features of the invention, which when considered in combination with those of claim 12 are not disclosed by the prior art relied upon in the rejection.

3. Rejection of Claims 1-7 and 10 under 35 U.S.C. § 103(a)

Claims 1-7 stand rejected under § 103(a) as being unpatentable over Berger et al. in view of Tuttle et al. (U.S. Patent 5,998,510). The applicants respectfully traverse this rejection because, even if the cited references were combined, the invention would not result. Therefore, reconsideration is in order and is respectfully requested.

Claim 1 as amended recites a machine having an affixed type plate as a carrier for written and/or graphical information. The type plate being an electronic storage device. The storage device has a separate input for data transmission signals generated in the machine representative of operational data of the machine, and a second input and an output to provide wire-free transmission of data to a device provided separately from the type plate.

The Examiner cites to the Berger et al. patent to show a dual mode data carrier. However, as described above, the Berger et al. patent does *not* teach or suggest the combination of a machine, a transmitter, and a type plate affixed to the machine as set forth in claim 1. Thereby, this invention satisfies a desire to monitor the assignment and maintenance of the machines while restricting access to the storage device.

The Tuttle patent fails to cure this deficiency. The Tuttle patent discloses a portable “smart” card configured to be carried by an individual rather than to be incorporated into a type plate of a machine. The smart card 10 has an integrated circuit 18 supported in a housing 11 (Col. 4, lines 34-41 and Fig. 1). The integrated circuit 18 includes a microprocessor 19, a battery 15, and a volatile memory 14 to store data (Col. 4, lines 38-56). Tuttle discloses use of the card 10 or 100 as a telephone card, access card, credit or debit card, prepaid card, etc. (Col. 6, lines 1-21). Tuttle does *not* disclose or even remotely suggest affixing the card 10 as a type plate on a machine.

A further review of the remaining cited references fails to teach or suggest this patentable subject matter. Hence, claim 1 is non-obvious over the combination of the cited references by the Examiner. In light of the amendment and the reasons stated

above, claim 1 defines over the cited references and passage to allowance is respectfully requested.

Dependent claims 2-7 are believed to be in condition for allowance for incorporating by reference the limitations of claim 1 and for defining additional features of the invention, which when considered in combination with those of claim 1 are not disclosed by the prior art relied upon in the rejection.

For example, claim 2 recites that the storage device does not have its own power supply. The Examiner alleges claim 2 is obvious in view of Tuttle teaching a smart card that includes written information. The Examiner fails to recognize that other aspects of Tuttle teach away from providing a permanently fixed type plate having written and/or graphical information and a storage device that lacks a power supply. Specifically, as a stated goal of Tuttle's invention is to provide a card that has "its own power source, and is not dependent on a reader for power, a volatile memory can be employed, and private data can be protected against access by an unauthorized individual" (Col. 6, lines 46-50; See also Col. 10, lines 1-16). Therefore, Tuttle teaches away from combining its card with Berger et al. Such a teaching away is a strong indicia of non-obviousness. See, e.g., MPEP §2143 and the cases cited therein. Tuttle teaches away from the claimed subject matter in that the objective of Tuttle is to provide a tamper resistant card. To achieve this objective, Tuttle teaches a two-part housing configured with a battery and a memory. Tampering with the housing causes the battery to drain, thereby causing data in the volatile memory to be lost or erased (Col. 3, lines 17-22; Col. 6, lines 50-61).

At best, if Tuttle were to be combined with Berger et al., the logical approach would be to also replace Berger et al.'s supply potential generating state 43 (See Col. 7, lines 46-50) with a battery of the type employed by Tuttle – in direct contravention to the claimed invention. To do otherwise would be to pick and choose amongst the isolated teachings of the individual references, using applicant's own disclosure as a template or mosaic to latch on to those teachings that support the Examiner's position while ignoring those that do not. The Federal Circuit has held that a rejection based on obviousness cannot be predicated upon such an approach:

"It is impermissible within the framework of section 103 to pick and chose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art.

*In re Hedges*, 228 USPQ 685, 687 (Fed. Cir. 1986), citing *In re Wesslau*, 3147 USPQ 391, 393 (CCPA 1965); see also MPEP §2143.01.

In another example, claim 3 as amended further requires that the storage device be suitable for receiving operating power required to read data into and out of the memory, as well as that required for storage, from the wire-free transmission to the second input of the storage device by the device provided separately from the type plate. Berger et al. discloses a dual mode carrier having a contact means and a non-contact means. Berger et al. does not teach or suggest a storage device having a first input and a second input each configured to receive a wireless transmission. Further review of the other cited references fails to teach or suggest use of a type plate suitable for receiving power to read data into or out of a memory from the wireless transmission of a signal from a device

separate from the type plate during wireless transmission of the first signal to a separate input of the storage device.

In yet another example, none of the cited references teach or suggest that the data includes information about the operating time or the loading of the machine as recited in new claim 11.

4. New Claims

New claim 11 depends from claim 1, and new claims 13-15 depend from claim 12. These claims and therefore are allowable for the same reasons that claims 1 and 12 are allowable. Furthermore, claims 13-15 contain additional patentable subject matter. Regarding claim 13, none of the cited references teach or suggest the receipt of operational power to the electronic storage device during the transmission of the first signal from the wireless transmitter of the mechanical machine. Regarding claim 14, none of the cited references teach or suggest a limitation that transmission of the operating data from the wireless transmitter to the first input of the type plate is possible only as a result of an input of a security code.

New claims 16-18 recite a method of monitoring operation of a mechanical machine incorporating a type plate configured generally as discussed above. As discussed above, Berger et al. does not disclose or suggest such a method, considered either alone or in combination with Tuttle.



### CONCLUSION

It is submitted that claims 1-7, 9 and 11-18 are in compliance with 35 U.S.C. §§ 102 and 103 and each defines patentable subject matter. A Notice of Allowance is therefore respectfully requested.

A check in the amount of \$950.00 is enclosed in payment of the fee associated with a request for a three-month's extension of time by a *large* entity, which applicant hereby makes. Should the Examiner consider any additional fees to be payable in conjunction with this or any future communication, the Director is authorized to direct payment of such fees, or credit any overpayment to Deposit Account No. 50-1170. The Examiner is invited to contact the undersigned by telephone if it would help expedite matters.

Respectfully submitted,



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